

Surface Transportation Board, DOT

§1111.10

The party shall serve copies of an answer to a cross complaint upon the other parties.

(d) *Failure to answer complaint.* Averments in a complaint are admitted when not denied in an answer to the complaint.

§1111.5 Motions to dismiss or to make more definite.

An answer to a complaint or cross complaint may be accompanied by a motion to dismiss the complaint or cross complaint or a motion to make the complaint or cross complaint more definite. A motion to dismiss can be filed at anytime during a proceeding. A complainant or cross complainant may, within 10 days after an answer is filed, file a motion to make the answer more definite. Any motion to make more definite must specify the defects in the particular pleading and must describe fully the additional information or details thought to be necessary.

§1111.6 Satisfaction of complaint.

If a defendant satisfies a formal complaint, either before or after answering, a statement to that effect signed by the complainant must be filed (original only need be filed), setting forth when and how the complaint has been satisfied. This action should be taken as expeditiously as possible.

§1111.7 Investigations on the Board's own motion.

(a) *Service of decision.* A decision instituting an investigation on the Board's own motion will be served by the Board upon respondents.

(b) *Default.* If within the time period stated in the decision instituting an investigation, a respondent fails to comply with any requirement specified in the decision, the respondent will be deemed in default and to have waived any further proceedings, and the investigation may be decided forthwith.

§1111.8 Procedural schedule in stand-alone cost cases.

Absent a specific order by the Board, the following general procedural schedule will apply in stand-alone cost cases:

Day 0—Complaint filed, discovery period begins.

Day 7 or before—Conference of the parties convened pursuant to §1111.10(b).

Day 20—Defendant's answer to complaint due.

Day 75—Discovery completed.

Day 120—Complainant files opening evidence on absence of intermodal and intramodal competition, variable cost, and stand-alone cost issues. Defendant files opening evidence on existence of product and geographic competition, and revenue-variable cost percentage generated by complainant's traffic.

Day 180—Complainant and defendant file reply evidence to opponent's opening evidence.

Day 210—Complainant and defendant file rebuttal evidence to opponent's reply evidence.

[61 FR 52711, Oct. 8, 1996; 61 FR 53996, Oct. 16, 1996, as amended at 63 FR 2639, Jan. 16, 1998]

§1111.9 Procedural schedule to determine whether to use simplified procedures.

Absent a specific order by the Board, the following procedural schedule will apply in determining whether to grant a request under §1111.1(a) to use the simplified procedures (with the remainder of the procedural schedule to be determined on a case-by-case basis):

Day 0—Complaint filed, discovery period begins.

Day 20—Defendant's answer to complaint and opposition to use of simplified procedures due.

Day 30—Complainant's response to use of simplified procedures due.

Day 50—Board's determination of whether simplified procedures should be used.

[63 FR 2639, Jan. 16, 1998]

§1111.10 Meeting to discuss procedural matters.

(a) *Generally.* In all complaint proceedings, other than those challenging the reasonableness of a rail rate based on stand-alone cost, the parties shall meet, or discuss by telephone, discovery and procedural matters within 12 days after an answer to a complaint is filed. Within 19 days after an answer to a complaint is filed, the parties, either jointly or separately, shall file a report with the Board setting forth a proposed procedural schedule to govern